

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LYNN N. EALY,

Defendant.

Case No. 1:05-CR-58

Hon. Richard Alan Enslen

ORDER

Defendant Lynn N. Ealy has moved for discovery concerning his outstanding Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. The Motion for Production of Documents is governed by Rule 6 of the Rules Governing Section 2255 Proceedings for the United States District Courts.

Under the Rule, “[h]abeas petitioners have no right to automatic discovery.” *Stanford v. Parker*, 266 F.3d 442, 460 (6th Cir. 2001). Rule 6 permits a movant to invoke the discovery processes available under the Federal Rules of Civil Procedure if, and to the extent that, the district judge in the exercise of discretion and for good cause shown grants leave for discovery, but not otherwise. *Williams v. Bagley*, 380 F.3d 932, 974 (6th Cir. 2004). Rule 6 embodies the principle that a court must provide discovery in a habeas proceeding only “where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief.” *Bracy v. Gramley*, 520 U.S. 899, 908-09 (1997) (quoting *Harris v. Nelson*, 394 U.S. 286, 300, 89 S.Ct. 1082, 22 L.Ed.2d 281 (1969)). “The burden

of demonstrating the materiality of the information requested is on the moving party.” *Stanford*, 266 F.3d at 460.

In this case, the information sought does not appear to be material, nor has the movant made specific allegations which provide the Court reason to believe that the Movant could succeed on some claim on a fully-developed record. The summary statement of reasons given in the Motion for Production are wholly conclusory and do not provide any specific reasons for the provision of discovery as to any section 2255 claim which is likely to succeed on the merits. Additionally, the request for Grand Jury transcripts was previously denied by order of this Court, whose order was affirmed on appeal. *United States v. Lynn N. Ealy*, no. 07-1138, Order (6th Cir. July 26, 2007); *see also United States v. Lynn N. Ealy*, nos. 06-1186/1257, Order (6th Cir. Apr. 20, 2007).

THEREFORE, IT IS ORDERED that Defendant Lynn N. Ealy’s Motion for Production of Records (Dkt. No. 105) is **DENIED**.

DATED in Kalamazoo, MI:
September 19, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE